

A Study of Washington State Child Support Orders

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**Semi-Annual Performance Report of the Research Project
*A Study of Washington State Child Support Orders:
Exploring the Universe of Cases within the Context
of the Child Support Schedule***

**Fifth Report
May 2003**

**Submitted to the Office of Child Support Enforcement
Administration for Children and Families
U.S. Department of Health and Human Services
Washington, D.C.**

Grant Number 90-FD-0035

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Exploring the Universe of Cases within the Context of the Child Support Schedule

Fifth Performance Report

This semi-annual progress report covers project activities for the period October 1, 2002, through April 30, 2003. The report includes a brief statement of the research plan and an update on project work thus far. The financial status report will be sent separately. The project began September 30, 2000, and has received an approved extension through February 29, 2004.

Project Summary Abstract

The child support order is the cornerstone of the public commitment to ensure the economic well being of children whose parents do not share the same household. For some families, private attorneys draw up the order, a judge signs it, and from then on the noncustodial parent pays the custodian directly. Beyond signing and recording the order, the state's representatives are not involved. But for many families, the state's child support (IV-D) agency plays a crucial, continuing role in getting the order signed and enforced, as well as in collecting and distributing child support payments.

This project seeks to investigate the outcomes that flow from the point of order origin. We wish to investigate how well new child support orders in the state of Washington meet the requirements of the Washington State Child Support Schedule. Beyond that, what relationship do they exhibit to the goal of ensuring the economic well being of children? How are child support orders shaped by the process of creation, negotiation, and signature? This is a complicated issue, since there are four distinct categories of child support orders within the state. For orders enforced within the IV-D system, how well do they relate to the goals of the Strategic Plan of the Office of Child Support Enforcement, especially the goals of increasing collection of child support, both current support and arrearages? How representative of all economic strata are the orders that end up in the IV-D case system?

The major part of this study is a comparative analysis of the child support orders for the non IV-D child support cases with the IV-D cases. The second part, now completed, was an investigation of how well recent child support orders conformed to the requirements of the existing support guidelines (the Washington State Child Support Schedule). The third part is a process analysis of how child support orders are set in the absence of income information from the noncustodial parent and/or the non-appearance of the noncustodial parent. Finally, we use a major finding from our recent arrearage study (final report forthcoming) as a tool for analyzing our central findings in the present study.

Progress to Date

Sampling the Universe of Child Support Orders

The federal requirement that all child support orders be sent to a central support registry effective October 1, 1998, made it possible to examine the universe of child support cases within the state. Prior to this federal requirement, the Division of Child Support did not have access to child support orders that allowed the noncustodial parent to pay the custodial parent directly. The central registry made it possible to examine the child support worksheets used to document the income and circumstances whereby child support is set for all parties in the state. This made it feasible to assess the full scope of child support orders, not just those within the Title IV-D system.

Because of new technology at the Division of Child Support, the documents of the non-IV-D child support cases are now available in an imaged format through the Washington State Support Registry (WSSR). The imaged forms include the support order and worksheets that detail the income of the parents, the children's ages, and other relevant circumstances that affect the amount of child support.

A stratified sampling strategy was chosen. Orders were sampled from the universe of child support orders entered in Washington State from October 2000 to March 2001. There are four categories of child support orders considered, two of them non IV-D and the other two IV-D orders from the DCS case load. Direct pay orders are ones requiring the noncustodial parent to pay the custodial parent directly. Most are court orders entered as decrees of divorce/dissolution or as modifications of previous court orders. Payment services only (PSO) orders require the noncustodial parent (NCP) to pay through the Washington State Support Registry, which is DCS, but the order is not enforced by DCS. The two IV-D categories consist of court orders, many of which are paternity orders, and administrative orders, which are created by DCS through the administrative process.

Obtaining the Economic Perspective

The project hired Dr. Kate Stirling as consultant to provide an economist's perspective. Dr. Stirling is an economics professor with a specialty in welfare economics. Her research has emphasized the consequences of divorce for women and children, including the impact of child support on family well-being. She had conducted two reviews of the Washington State Child Support Schedule (in 1991 and 1995) for the state of Washington.

We asked Dr. Stirling to address several major topics in her analysis of the project sample of recent Washington orders with the aim of placing the results of the analysis in a wider context. (1) Looking at the sample, what is the income distribution of parents as documented in these orders? Do the four categories of orders show distinct differences in parents' incomes? Do order amounts differ significantly between the categories? Are the

order amounts in conformity with the existing schedule guidelines, given the incomes of the parents? (2) How has the cost of raising children changed? Since the first statewide schedule was adopted in September 1991, how have expenditures by families on children changed, according to current economic literature? How does Washington's schedule measure up in terms of economic data and policy issues? (3) A particular area of interest is the impact of the schedule on children in low income families and children in poverty.

Dr. Stirling's economic study of recent Washington State child support orders for this project was published as Part 2 of the project's Fourth Performance Report (October 2002).¹

Subsequently, Dr. Stirling was hired to conduct a review of the Washington State Child Support Schedule, which was completed in March 2003.² This brief study follows the format required for the periodic review of the Schedule. It concluded that compliance with the Schedule is high, with an overall error rate of only 1-3 percent.

Here we will summarize only a few of the findings from these two studies. Overall, the net median income of noncustodial parents is \$1,500, and the current support order amount is \$283 (17.9 percent). Dr. Stirling's studies show a marked difference in income between the parents with IV-D orders and those with non IV-D orders. For the non IV-D orders, median net monthly income is \$2,496, and the median order is \$465. The IV-D incomes are only about half as much, with a median of \$1,259, and the median order is \$239.

Custodial parents and their children typically experience a much greater drop in their standard of living than noncustodial parents. However, there is a decided difference in economic well-being between the IV-D order parents and families, on the one hand, and the non IV-D on the other. Poverty is virtually absent among the non IV-D cases. Poverty rates exceeded the national average for the IV-D cases even when households were intact; splitting the resources greatly increased the poverty rate, especially for the custodial parent and children.

The Schedule allows deviations up or down from the presumptive amount for various specified reasons. Dr. Stirling's studies found that deviations from the Schedule are now common; the proportion of orders with deviations has increased from that found in her earlier reviews. The overall deviation rate is 28.5 percent. Most (87 percent) are downward deviations, and they are substantial: a 35 percent decrease from the presumptive amount.

Examining the Process of Calculating Income and Setting Orders

The Washington State Child Schedule provides that child support be based on parents' income. However, when the parent's actual income is not available, the law provides for

¹ Kate Stirling, *An Economic Study of Recent Washington Child Support Orders*, September 2002, included as Part 2 of *A Study of Washington State Child Support Orders*, Fourth Performance Report, October 2002.

² Kate Stirling, *A Review of the Washington State Child Support Schedule*, March 2003.

imputing income so that establishment of the order may go forward. We anticipated that imputing income was largely limited to establishing income for NCPs on IV-D orders.

We quickly discovered that our original statement of the problem was too narrow. Imputing of income is not limited to situations where the noncustodial parent failed to provide income information or failed to appear at a hearing. It is not limited to noncustodial parents. It is not limited to IV-D cases.

Because Washington uses a variation of the income shares model, both parents' income is listed on the support schedule worksheet. When the attorney, DCS staff person, or parents fill out the worksheet, they must deal with the custodial parent's side of the sheet too, even when the custodian is a stay-at-home mom. The schedule also provides that if a person is voluntarily unemployed or underemployed, income may be imputed.

A number of scenarios are encountered in the worksheets. For example, a stay-at-home mother may have income computed as zero, imputed at minimum wage, or imputed at median net for her age group and gender. In some counties a custodial parent who is receiving TANF will have income imputed at full-time minimum wage if the youngest child is over six years of age. A person who is employed part-time may have income imputed to full-time at that hourly wage. Moreover, that figure may be treated as either "actual" or "imputed" income.

Income may be imputed in different ways. The schedule permits income to be imputed at national median net for the age group and gender, using a chart that is periodically updated. If a person has wages reported to Employment Security within the past five years, that wage may be imputed for the present and future. Recently, imputing at minimum wage has become more common as IV-D staff have become aware of the large number of parents with little or no employment history and with many barriers.

For the study she conducted for this project on the basis of data DCS staff had collected and coded, Dr. Stirling used an "imputation estimator," to help compensate for underreporting of imputation. She concluded that 50.3 percent of the IV-D orders utilize imputed income for the noncustodial parent compared to 28.0 percent of the non IV-D.

In the subsequent review she concluded that the "best estimate is that 45.8 percent of the orders are based on imputed income. " The IV-D orders used imputed income for the noncustodial parent in 52.2 percent; the non IV-D in 32.4 percent of the orders.

In this project we have used a combination of sources to learn how prevalent imputing income is. For the Direct Pay and PSO orders, the coder read the imaged orders including the worksheets. Often either the order or the worksheet explained how an income figure was calculated and sometimes provided the name of an employer. If not, the coder checked charts to see whether minimum wage, median net, need standard, or some other source matched. When income was imputed, the coder indicated the method of imputation if possible.

For the IV-D orders we looked first at information DCS and prosecutor staff entered when they were generating worksheets via the SSGen (Support Schedule form generation) program. The worksheet program provides options to check whether the father's income was imputed and whether it was unknown in addition to a fill-in space for a wage figure. The same options are provided in the mother's column of the worksheet.

Once she had received the coded data, Dr. Stirling used an imputation estimator to help pick up underreporting. Her method of estimating instances of imputed income should help pick up imputed income when imputing is based on a standard chart, such as the chart for median net income by gender and age, or a minimum wage chart. Unfortunately, it cannot identify income as imputed if part-time employment is imputed to full-time. Our information is that imputing part-time employment to full-time is common among IV-D orders.

The preliminary data reliability check conducted by project staff indicated that for the IV-D orders, the information from the SSGen form generation program underestimated the number of worksheets using imputed income. Consequently, we will look at a subsample to estimate the amount of underreporting. This will also provide a comparison with the method used by Dr. Stirling, which should help us produce more accurate reviews in the future.

In addition, we will look at custodial parents as well as noncustodial. Because the Schedule uses income of both parents to determine the total support obligation and thereafter the proportion the noncustodial parent pays, obviously the income attributed to the custodial parent is also important. The larger the proportion attributed to the custodial parent, the smaller the noncustodial parent's transfer payment.

When child support guidelines were implemented with provision for imputing income, lawmakers were devising a method for dealing with uncooperative noncustodial parents. Some parents hid income. Others were "voluntarily unemployed or underemployed," in part, it was believed, to avoid paying child support. It is not clear that lawmakers envisioned imputing income to a stay-at-home mom because she was "voluntarily unemployed."

It is certainly unclear whether lawmakers envisaged imputing minimum wage to a mother on welfare because her youngest child is of school age. If a family is on TANF because the parents lacked income, is there something odd about assuming a minimum-wage job is possible and therefore the worksheet should be designed as though the mother already has such a job?

Perhaps these extensions of provisions to custodial parents reflect changes in society. Since welfare reform, the expectation has been introduced that both parents will work outside the home. After all, the majority of mothers not on welfare are in the workforce. Perhaps this technique seems "only fair."

Whatever the ultimate decision about when income should be imputed, it is important that child support professionals and lawmakers be aware of how widespread the practice has become. Certainly it seems unwise to allow orders to be recorded as though the income they are predicated on is an actual reality. Otherwise, the appearance of conformity with the uniform child support guidelines will be misleading.

Recent Work

Presently, we are exploring the use of a tool derived from another project as an additional measure of order amounts.

A major finding of the Arrearages study was that the ratio of monthly order amount (current support) to the NCP's reported gross wages (MTW ratio) was strongly related to debt patterns. Debt is concentrated; most of the debt belongs to a minority of NCPs. For those NCPs whose arrearages continuously increased over a 15-quarter period, the MTW ratio was very high; in fact, the monthly order amount was often larger than monthly earnings. NCPs whose debt steadily decreased or stayed the same because current support was paid each month had much lower orders in relation to wages.³ Generally, debt grew if the MTW ratio was above .20 (i.e., the order was more than 20 percent of gross reported wages). If the order was set lower, debt did not grow.

Consequently, the MTW ratio may be a useful screening tool to help determine whether the order is likely to lead to later debt growth. If the monthly order (current support or transfer payment) is more than 20 percent of the NCP's gross monthly income, some debt growth is likely.

Even if the individual order is below this limit, debt may grow if the NCP has multiple orders. Nevertheless, this initial screening device may give us a practical measure to determine whether recent order-setting practices are likely to contribute to arrearages in the future.

The Washington State Child Support Schedule uses net monthly income rather than gross in calculating support obligations. The *legal* limit on an individual order is *45 percent* of the NCP's *monthly net income*. In contrast, our "practical limit" is *20 percent of monthly gross income*.

Our initial questions were: how does the transfer payment legal limit compare to our practical limit? How frequently does the transfer payment reach the "practical limit"? Is

³ *Determining the Composition and Collectibility of Child Support Arrearages*, conducted under OCSE Grant Number 90-FD-0027, Fourth Performance Report, November 2001, pp. 17-27, and Fifth Performance Report, April 2002, pp. 7-19.

this more likely at one income level than another? Is there a difference between IV-D orders and non IV-D?

In our initial work on this we have computed the 20 percent limit of gross for each NCP, as well as the corresponding 45 percent limit on net income. We have constructed a scale of gross monthly income and looked at the resulting distribution of orders to see where problems are most likely.

Thus far we have found some encouraging news and also some issues to be concerned about.

- At every level of the gross income scale, the corresponding legal limit of 45 percent of net is higher than the practical limit of 20 percent of gross income. Consequently, regardless of income level, there is always the potential for an individual order to be set higher than 20 percent of net.
- The *percentage* difference between gross and net income *increases* as we move up the income scale. That is, for a low-income NCP, net income is a larger proportion of gross than it is for an upper-income NCP. For people with gross income between \$700-\$1,400 a month, net is about 85 percent of gross, while for parents with gross income above \$6,300 a month, net is about 65 percent of gross. So percentage-wise, lower income parents get less benefit from the 45-percent-of-net limit. For DCS, this means that the practical limit of 20 percent net is more likely to be exceeded when dealing with low-income parents.
- Despite the potential for problems, most orders in the sample fell below either limit. For the whole sample, transfer payments averaged 14.9 percent of gross monthly income and 18.3 percent of net monthly income. For IV-D orders, transfer payments averaged 15 percent of gross and 18 percent of net monthly income.
- Nevertheless, among the IV-D orders, about one-fifth (19.4 percent) of the ordered transfer payments exceed 20 percent of the NCP's gross income. Fifteen of these orders exceed 50 percent of the NCP's gross income.